

## NOTICE OF MOTION

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DOC # 21

BZN SONG  
USPS Clerk

Plaintiff,

-against-  
John E. PottsPostmaster General, USPS New York metro.

Defendants.

## NOTICE OF MOTION

05 Civ. 8132 (LAK) (THK)  
06 Civ. 904 (LAK) (THK)

MEMO ENDORSED

SIRS:

PLEASE TAKE NOTICE that upon the annexed affidavit or affirmation of BZN SONG, sworn to or affirmed 07/11, 2007 and upon the complaint herein, plaintiff will move this Court, LEWISA. KAPLAN, U.S.D.J., in room 12D, United States Courthouse, New York, New York 10007, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ or as soon thereafter as counsel can be heard, for an order pursuant to rule \_\_\_\_\_ of the Federal Rules of Civil Procedure granting:

I want to have a motion to compel the defendant to present the necessary documents to me or to this Court (if the documents is confidential to me). Such documents includes ① The W-2 forms or PS Form 1223-B of the clerks in Long Beach post office, or any kind annual statistical information about the wage, work hours, overtime of work of every clerk in LBPO from 1997 to 2005 ② All the 3917 forms or disciplinary records issued by Mr. Olean Prekopa to clerks in LBPO, when Mr. O Prekopa was a delinquent supervisor in LBPO.

Dated: 07/11/2007

*Motion denied. It was filed untimely, after discovery had been completed. Moreover, it raises issues previously addressed by the Court, is overbroad, and seeks information which has little or no relevance to Plaintiff's claims.*

SO ORDERED

1/17/08Theodore H. KatzTHEODORE H. KATZ  
UNITED STATES MAGISTRATE JUDGEBen Song / Ben Song  
Plaintiff Pro Se99-30.59 ave apt 22  
AddressRego Park, NY 11368  
City, State, Zip Code718 271 0357  
Phone Number

MEMO ENDORSED

PRO SE OFFICE

COPIES MAILED  
TO COUNSEL OF RECORD ON 1/17/08

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKBZEN SONG  
USPS Clerk

Plaintiff,

-against-

John Z. Potter  
Postmaster General, USPS New York Metro

Defendants.

## AFFIDAVIT/AFFIRMATION

05 Civ. 8132 (LAK) (THK)06 Civ. 904 (LAK) (THK)STATE OF NEW YORK )  
COUNTY OF ) SS.:I, BZEN SONG, [being duly sworn] deposes and says [or: makes the following affirmation under the penalties of perjury]:

I, BZEN SONG, am plaintiff in the above entitled action, and respectfully move this Court to issue an order to compel the defendant to present the necessary documents to me or to court. The reason why I am entitled to the relief I seek is the following: such documents include (1) the W-2 forms or the earnings statements (PS form 1323-B) on any kind of annual statistical information about wage, work hours, overtime work hours of each clerk in Long Beach Post Office (LBPO) from 1997 to 2005 (2) the PS 3917 forms or disciplinary issues, issued by Mr G. Prokop to the clerks in LBPO, when Mr G. Prokop was a delivery supervisor in LBPO, because these documents are the necessary evidences to support my complain and will be used in my further motion or the response to the defendant's motion. (its detail explanation is in my attached paper "the reason for this motion".

WHEREFORE, I respectfully request that the court grant the within motion, as well as such other and further relief and may be just and proper.

Sworn to before me this  
day of 07/11, 2007\_\_\_\_\_  
print your name

OR: I declare under penalty of perjury that the foregoing is true and correct.

Executed on 07/11/2007Ken. Song  
print your name

The reason for this motion

07/11/2007 by BEN SCAG

In this motion. I request a Court motion to compel the defendant to present the necessary documents to me, or to the Court if the documents is confidential to me now. Such documents includes ① The W-2 forms, or the earnings statements (PS form 1523-B), or any kind annual statistical information about Wage, work hours, overtime work hours of each clerk in Long Beach post office (LBPO) from 1997 to 2005 ② the PS 3971 form or disciplinary issues <sup>related to attendance</sup> issued by Mr G Prekopa to clerks in LBPO, when Mr. G Prekopa was a deliver supervisor in LBPO. In the affirmation of the motion I said these documents are the necessary evidences to support my complain and will be used in my further motion, or the response to the defendant's motion. Now I am explaining the reason:

In the attached paper appellants brief to EEOC by Ms. Dawei Jongsun, ZS9 on 10/01/2004, <sup>for case of CA 8154</sup> Ms D Jongsun (attorney) "being assigned less work hours." "appellant was again treated differently by supervisor Mr G Prekopa ..... supervisor Mr G Prekopa demanded appellant to fill out a form 3971 to report his lateness ..... Supervisor Mr. G Prekopa insisted on his unreasonable order. No other clerks were required by Supervisor Glean except Appellant." ..... as the fact of discrimination and retaliation from LBPO to me.

In the attached paper "general facts of discrimination and Retaliation from 1997 to 2001" to the motion of consolidate two case in one on 04/28/2006. I complain the facts of discrimination and Retaliation from LBPO to me. It included fact ⑥ (on page 1) and fact ① (on page 7) <sup>related to Form 3971</sup> <sup>related to Wage or work hours</sup>

so the W-2 form and PS 3971 are the basic evidences for my complain. then In my paper "Plaintiff's first set of interrogatories and Requests



for documents" on 12/02/2006. I requested every clerk's W-2 form and Tax statements of LBPO or the annual statistical information of overtime & V Time working hours of every clerk of LBPO from 1997 to 2006. and the form 3971 (PS) related to attendance given by Mr. G Prekopa when he worked in LBPO as carrier supervisor and the other documents.

All of these reasonable requests was objected by defendant by the defendant's letter to me on 03/08/2007

on 03/28/2007

For my discovery report. I wrote a letter to Judge Katz. I asked Judge Katz to help me to get some information from defendant. I requested again I need the annual statistical information of overtime & V Time work hours of every clerk in LBPO from 1997 to 2006 and W-2 Wage form of every clerk from 1997 to 2006. also I asked the 3971 forms & disciplinary issues issued by Mr. G Prekopa to the clerk in LBPO. When Mr. G Prekopa was a delivery supervisor in LBPO. I sent the copy of this letter to defendant too. In response letter from defendant on 04/06/2007. Mr. M L Schwartz said "the government initially objects to these documents. .... We continue to object to any request for W-2 forms to all Postal clerks. Such information is private, and totally irrelevant to Mr. Song's claims which do not concern his salary." Here, Mr. Schwartz's sentence is totally wrong, because in case 05 CIV 8132 and the motion of consolidation I claimed <sup>facts of</sup> the discrimination and Retention from LBPO to me that include my salary as Form 3971.

I also wrote a letter to Judge Katz on 05/17/2007. I reported <sup>80% of</sup> the papers as the requested documents from defendant in the duplicate papers. and Mr. Schwartz played a very bad game to me and to this Court. He did not send any piece of documents of annual statistical information about work hours or wage, instead. He send me more than 4000 pieces of dy by dy data of work hours. We cannot get right information from these papers to judge the LBPO if they did

discrimination and Retaliation in my salary or work hours.

Without the original form 3971 or disciplinary issues <sup>related to attendance</sup> issued by Mr. G prebop to the other clerks in LBPO, We also can not judge the issue of a Form 3971 or the letter of Warning from Mr. G prebop to me is a fact of discrimination and retaliation to me or not.

From the reasons above. I make this motion. / Ben Song

~~~~~ end ~~~~~

BEN SONG on 07/11/2007  
99-30.59 at apt 22 Rgo P.H.  
NY 11368.

RS. ① a sample of Zarnings statement (PS Form 1225-B)

this form has the information of work hours, O/V Time, and the Wage.  
It's easy to compare each other. every year We get 26 Forms.

② a sample of the taxes that the defendant sent to me. it is so convenient to compare each other.

400 35-4820 B SONG  
 PAYLOC FINANCE NO. EMPLOYEE NAME  
 01696777 02 07 24816388  
 EMPLOYEE ID PAY PERIOD SERIAL NUMBER  
 GROSS TO NET  
 THIS PERIOD YEAR-TO-DATE  
 GROSS PAY 210313 406992  
 GROSS PAY 210313 406992  
 FED TAXES 15812 29747  
 ST TAX 9039 17221  
 RETIRE 8 1424 2848  
 MEDICARE 2950 5718  
 UN W 2067 4134  
 INBD 600 1200  
 HP515 6870 12618  
 TSP 8902 17804  
 SOSEC 12613 24451  
 BALANCE 18084  
 LEAVE WITHOUT PAY  
 THIS PP  
 CUMULATIVE  
 BOND UNAPPL BAL #ISSUED  
 EE  
 I  
 USPS RETIREMENT  
 2555.97

DETAIL EARNINGS  
 WK RSC/LEV RATE CODE TYP1 HOURS PAY  
 2 P 05 46290 110 W 3200 71215  
 2 P 05 46290 110 O 266 8880  
 2 P 05 46290 110 N 14 21  
 1 P 05 46290 110 V 114 5074  
 1 P 05 46290 110 W 4000 89019  
 1 P 05 46290 110 O 545 18193  
 1 P 05 46290 110 N 71 107  
 L 800 17804  
 FLSA 4659

ANNUAL LEAVE  
 FROM PREV YR 34926  
 THIS YR 600  
 BAL 35526  
 USED YR  
 THIS PP  
 BALANCE 50926  
 SICK LEAVE  
 FROM PREV YR 17684  
 THIS YR 400  
 USED YR  
 THIS PP  
 BALANCE 18084  
 LEAVE WITHOUT PAY  
 THIS PP  
 CUMULATIVE  
 BOND UNAPPL BAL #ISSUED  
 EE  
 I  
 USPS RETIREMENT  
 2555.97

PS FORM 1223-B, JUNE 1985

PS (1)

2



Report: TAC500R3 v1.4  
YrPPWk: 2004-04-2 to 2007-04-2  
Fin. #: 35-4820

Restricted USPS T&A Information  
LONG BEACH NY  
Employee Everything Report

User ID: KY27T0  
Date: 02/22/07  
Time: 12:39 PM  
Page: 24

YrPPWk: 2004-04-2

Weekly

Sub-Unit: 0000

|                   |             |              |   |                |        |           |         |
|-------------------|-------------|--------------|---|----------------|--------|-----------|---------|
| Pay Loc/Fin. Unit | 400 / 0000  | Variable EAS | N | Annual Lv Bal. | 523.72 | FMLA Hrs  | 1685.60 |
| Employee ID       | XXX-XX-8387 | Borrowed     | N | Sick Lv Bal.   | 128.00 | FMLA Used | 00.00   |
| Employee Name     | SONG B      | Auto H/L     | N | LWOP Lv Bal.   | 00.00  | SLDC Used | 00.00   |

| Job  | D/A  | LDC  | Oper/Lu | RSC | Lvl | FLSA | Route # | Fin. #  | Loaned Fin. # | Effective Start | Effective End | Begin Tour | End Tour | Lunch Amt. | 1261 Ind. | Schedule |
|------|------|------|---------|-----|-----|------|---------|---------|---------------|-----------------|---------------|------------|----------|------------|-----------|----------|
| Base | 11-0 | 4800 | 5440-00 | P0  | 05  | N    | 000000  | 35-4820 |               | 2004-04-2       | 2004-04-2     | 08.50      | 17.50    | 1.00       | N         | S-MT-TF  |

Processed Clock Rings

Saturday

| Base        | EBR # | 05200: 008.29 | 05300: 000.29 |         |        |       |             |                                  |
|-------------|-------|---------------|---------------|---------|--------|-------|-------------|----------------------------------|
| 031-0101 BT | 01/31 | 08.35         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00 (W)NonScheduled Begin Tour |
| 000-0000 OT | 01/31 | 08.50         | 35-4820       | 5440-00 | 000000 | 00.29 | XXX-XX-5264 | 02/02 06.57                      |
| 031-0101 OL | 01/31 | 12.95         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00                            |
| 031-0101 IL | 01/31 | 13.81         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00                            |
| 031-0101 ET | 01/31 | 17.50         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00                            |

Monday

| Base        | EBR # | 05200: 008.28 | 05300: 000.28 |         |        |       |             |                                |
|-------------|-------|---------------|---------------|---------|--------|-------|-------------|--------------------------------|
| 000-0000 OT | 02/02 | 08.50         | 35-4820       | 5440-00 | 000000 | 00.28 | XXX-XX-5264 | 02/03 06.77                    |
| 031-0101 BT | 02/02 | 08.50         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00                          |
| 031-0101 OL | 02/02 | 12.50         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00                          |
| 031-0101 IL | 02/02 | 13.50         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00                          |
| 031-0101 ET | 02/02 | 17.78         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00 (W)NonScheduled End Tour |

Tuesday

| Base        | EBR # | 05200: 008.10 | 05300: 000.10 |         |        |       |             |                                |
|-------------|-------|---------------|---------------|---------|--------|-------|-------------|--------------------------------|
| 031-0101 BT | 02/03 | 08.48         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00                          |
| 000-0000 OT | 02/03 | 08.50         | 35-4820       | 5440-00 | 000000 | 00.10 | XXX-XX-5264 | 02/04 06.70                    |
| 031-0101 OL | 02/03 | 12.67         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00                          |
| 031-0101 IL | 02/03 | 13.69         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00                          |
| 031-0101 ET | 02/03 | 17.60         | 35-4820       | 5440-00 | 000000 | -     | -           | 00.00 (W)NonScheduled End Tour |

Thursday

| Base        | EBR # | 05200: 008.00 |         |         |        |   |   |       |
|-------------|-------|---------------|---------|---------|--------|---|---|-------|
| 031-0101 BT | 02/05 | 08.51         | 35-4820 | 5440-00 | 000000 | - | - | 00.00 |
| 031-0101 OL | 02/05 | 12.75         | 35-4820 | 5440-00 | 000000 | - | - | 00.00 |
| 031-0101 IL | 02/05 | 13.76         | 35-4820 | 5440-00 | 000000 | - | - | 00.00 |
| 031-0101 ET | 02/05 | 17.57         | 35-4820 | 5440-00 | 000000 | - | - | 00.00 |

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
BEN SONG  
USPS clerk X

AFFIRMATION OF SERVICE

-against-  
John Z. Potter  
Postmaster General  
USPS New York area X

05 Civ. 8132 (LAK) (THK)  
06 Civ. 904 (LAK) (THK)

I, BEN SONG, declare under penalty of perjury  
that I have served a copy of the attached the notice of motion to compel.

upon US assistance attorney Mr. M.L. Schwartz (Southern District)  
whose address is 86 Chambers, 3<sup>rd</sup> FL  
New York, New York 10007

DATED: 07/11/2007, New York

\_\_\_\_\_, 2007

Ben Song  
Signature

99-30.59 ave apt 21

Address

Rego Park, NY 11368

City, State & Zip Code